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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
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14 QUY TRUONG, an individual,
15 Plaintiff,

16 vs.

17 VEMANTI CAPITAL PARTNERS,
18 LLC, a limited liability company
19 Defendants.
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Case No.: 8:24-cv-01787

COMPLAINT FOR

**(1) VIOLATION OF THE UNRUH
CIVIL RIGHTS ACT
(CALIFORNIA CIVIL CODE
§§ 51, 52);**

**(2) VIOLATIONS OF THE
AMERICANS WITH
DISABILITIES ACT OF 1990**

I.
SUMMARY

1. This is a civil rights action by plaintiff Quy Truong (“Plaintiff”) for discrimination at the building, structure, facility, complex, property, land, development, and/or surrounding business complex bearing the legal address of 12506 Westminster Ave., Garden Grove, CA 92843 from which the company “DAWA KITCHEN” operates (the “Property”). Plaintiff visits the area several times a year for dining and entertainment as he enjoys various restaurants offered in the area. On this particular occasion he desired to visit the restaurant “Dawa Kitchen.”

2. Plaintiff seeks damages, injunctive and declaratory relief, attorney’s fees and costs pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101, et seq.) and related California statutes¹ against Defendants, the owner of the Property VEMANTI CAPITAL PARTNERS, LLC, a limited liability company (“Defendant”).

II.
JURISDICTION

3. This Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1343 for ADA claims.

4. Supplemental jurisdiction for claims brought under parallel California law – arising from the same nucleus of operative facts – is predicated on 28 U.S.C. § 1367.

5. Plaintiff’s claims are authorized by 28 U.S.C. §§ 2201 and 2202.

III.
VENUE

6. All actions complained of herein take place within the jurisdiction of the United States District Court, Central District of California, and venue is invoked pursuant to 28 U.S.C. § 1391(b), (c).

¹ Plaintiff is not currently asserting a cause of action under California Civil Code § 55, but may amend his complaint at a later time upon discovery of facts which give rise to such a claim.

IV.
PARTIES

7. Defendant is or was at the time of the incident, the owner, operator, lessor and/or lessee of the Property, and consists of a person (or persons), firm, company, and/or corporation.

8. Plaintiff suffers from spina bifida and is a paraplegic, and as a result is unable to walk or stand, and thus requires a use of a wheelchair at all times when traveling in public. Plaintiff is “physically disabled” as defined by all applicable California and United States laws, and a member of the public whose rights are protected by these laws. Plaintiff is a resident of Orange County, California. Plaintiff is not a high frequency litigant as that term is defined under California Code of Civil Procedure § 425.55. In the twelve (12) months prior to the filing of this lawsuit, Plaintiff filed five (5) other accessibility complaints.

V.
FACTS

9. On July 12, 2024, Plaintiff went to patronize the Property. The Property is a sales or retail establishment, open to the public, which is intended for nonresidential use and whose operation affects commerce.

10. Plaintiff visited the Property and encountered barriers (both physical and intangible) that interfered with – if not outright denied – Plaintiff’s ability to use and enjoy the goods, services, privileges and accommodations offered at the facility. To the extent known by Plaintiff, the barriers at the Property included, but are not limited to the following:

- a. The access aisle and/or accessible parking spaces have slopes and cross slopes that exceed 2.0%, creating excessive sloping. Without a level parking space, it becomes difficult for Plaintiff to unload/transfer from his vehicle as his wheelchair rolls.

- 1 b. Parking spaces designated as accessible are not properly configured,
2 including but not limited to access aisles that are too narrow and short.
3 Without an access aisle that is of sufficient width, this makes it difficult
4 for Plaintiff to transfer in and out of his car from his wheelchair.
5 c. Accessible parking spaces do not lead to accessible pathways.
6 Specifically, accessible pathways are either too narrow and/or steep thus
7 making it difficult and dangerous for Plaintiff to travel throughout the
8 Property. In some cases, access aisles lead to curbs without any way for
9 Plaintiff to traverse onto the curb.
10 d. Accessible parking spaces are not in good working condition. For
11 example, the pavement markings are severely faded making it difficult
12 for Plaintiff to determine which spaces can and will accommodate
13 persons with disabilities.

14 **11.** These barriers to access are listed without prejudice to Plaintiff citing
15 additional barriers to access after inspection by Plaintiff's access consultant, per the
16 9th Circuits standing standards under *Doran v. 7-Eleven, Inc.* 524 F.3d 1034 (9th Cir.
17 2008). These barriers prevented Plaintiff from enjoying full and equal access to the
18 Property.

19 **12.** Plaintiff experienced difficulty, discomfort and embarrassment from the
20 accessible barriers he encountered. Although he would like to visit the Property
21 again, he continues to be deterred from visiting the Property because of the future
22 threats of injury created by these barriers. Plaintiff would return to the Property once
23 the barriers are removed. Plaintiff desires to return to the Property as he enjoys the
24 restaurant located at the Property and lives very close to the Property. Within 6
25 months of the barriers being corrected, Plaintiff would likely return to the Property to
26 not only patronize the stores at the Property but to also ensure that barriers have been
27 properly removed.
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1 17. California Civil Code § 52 provides that the discrimination by
2 Defendants against Plaintiff on the basis of his disabilities constitutes a violation of
3 the anti-discrimination provisions of §§ 51 and 52.

4 18. Defendants' discrimination constitutes a separate and distinct violation of
5 California Civil Code § 52 which provides that:

6 Whoever denies, aids or incites a denial, or makes any discrimination
7 or distinction contrary to section 51, 51.5 or 51.6 is liable for each and
8 every offense for the actual damages, and any amount that may be
9 determined by a jury, or a court sitting without a jury, up to a
10 maximum of three times the amount of actual damage but in no case
11 less than four thousand dollars (\$4,000) and any attorney's fees that
12 may be determined by the court in addition thereto, suffered by any
13 person denied the rights provided in Section 51, 51.5 or 51.6.

14 19. Plaintiff continues to be deterred from visiting the Subject Property based
15 upon the existence of the accessible barriers. In addition to the occurrence in July
16 2023, Plaintiff is entitled to \$4,000.00 in statutory damages for each additional
17 occurrence of discrimination under California Civil Code § 52.

18 20. Any violation of the Americans with Disabilities Act of 1990 (as pled in
19 the Third Cause of Action) constitutes a violation of California Civil Code § 51(f)
20 thus independently justifying an award of damages and injunctive relief pursuant to
21 California law. Per § 51(f), "[a] violation of the right of any individual under the
22 Americans with Disabilities Act of 1990 ... shall also constitute a violation of this
23 section."

24 21. The actions and omissions of Defendants as herein alleged constitute a
25 denial of access to and use of the described public facilities by physically disabled
26 persons within the meaning of California Civil Code §§ 51 and 52. As a proximate
27 result of Defendants' action and omissions Defendants have discriminated against
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1 Plaintiff in a violation of Civil Code §§ 51 and 51.
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4 **VII.**

5 **SECOND CAUSE OF ACTION: VIOLATION OF THE AMERICANS WITH**
6 **DISABILITIES ACT OF 1990 (42 USC §§ 12101 *et seq.*)**

7 22. Plaintiff incorporates the allegations contained in paragraphs 1 through
8 21 for this claim and incorporates them herein.

9 23. As part of the Americans with Disabilities Act of 1990 (“ADA”),
10 Congress passed “Title III – Public Accommodations and Services Operated by
11 Private Entities.” 42 U.S.C. § 12181 *et seq.* The Property is one of the “private
12 entities” which are considered “public accommodations” for purposes of this title,
13 which includes any “restaurant, bar, or other sales or rental establishment serving food
14 or drink.” § 301(7)(B).

15 24. The ADA states that “[n]o individual shall be discriminated against on
16 the basis of disability in the full and equal enjoyment of the goods, services, facilities,
17 privileges, advantages, or accommodations of any place of public accommodation by
18 any person who owns, leases, or leases to, or operates a place of public
19 accommodation.” 42 U.S.C. § 12182.

20 25. The acts and omissions of Defendants set forth herein were in violation
21 of Plaintiff's rights under the ADA and the regulations promulgated thereunder, 28
22 CFR Part 36 *et seq.*

23 26. On information and belief, Plaintiff alleges that the Property was
24 constructed after January 26, 1992.

25 27. On information and belief, Plaintiff alleges that the removal of each of
26 the barriers complained of by Plaintiff as hereinabove alleged, were at all times herein
27 mentioned "readily achievable" under the standards §§ 301 and 302 of the ADA. As
28 noted hereinabove, removal of each and every one of the architectural barriers

1 complained of herein were also required under California law. Further, on information
2 and belief, alterations, structural repairs or additions since January 26, 1993 have also
3 independently triggered requirements for removal of barriers to access for disabled
4 persons per § 303 of the ADA. In the event that removal of any barrier is found to be
5 "not readily achievable," Defendant still violated the ADA, per § 302(b)(2)(A)(v) by
6 failing to provide all goods, services, privileges, advantages and accommodations
7 through alternative methods that were readily achievable.

8 28. On information and belief, as of the date of Plaintiff's encounter at the
9 Property and as of the filing of this Complaint, the Defendants have denied and
10 continue to deny full and equal access to Plaintiff and to other disabled persons,
11 including wheelchair users, in other respects, which violate plaintiff's rights to full and
12 equal access and which discriminate against Plaintiff on the basis of his disability,
13 thus wrongfully denying to plaintiff the full and equal enjoyment of the goods,
14 services, facilities, privileges, advantages and accommodations, in violation of §§ 302
15 and 303 of the ADA. 42 USC §§ 12182 and 12183.

16 29. On information and belief, Defendants have continued to violate the law
17 and deny the rights of Plaintiff and other disabled persons to access this public
18 accommodation since on or before Plaintiff's encounters, as previously noted.
19 Pursuant to the ADA, § 308, 42 USC 12188 *et seq.*, Plaintiff is entitled to the
20 remedies and procedures set forth in § 204(a) of the Civil Rights Act of 1964, 42 USC
21 2000(a)-3(a), as Plaintiff is being subjected to discrimination on the basis of disability
22 in violation of the ADA or has reasonable grounds for believing that he is about to be
23 subjected to discrimination. Pursuant to § 308(a)(2), "In cases of violations of § 302(b)
24)(2)(A)(iv) and § 303(a) ... injunctive relief shall include an order to alter facilities to
25 make such facilities readily accessible to and usable by individuals with disabilities to
26 the extent required by this title."

27 30. Plaintiff seeks relief pursuant to remedies set forth in § 204(a) of the Civil
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1 Rights Act of 1964, 42 USC 2000(a)-3(a), and pursuant to Federal Regulations
2 adopted to implement the Americans with Disabilities Act of 1990. Plaintiff is a
3 qualified disabled person for purposes of § 308(a) of the ADA who is being subjected
4 to discrimination on the basis of disability in violation of Title III and who has
5 reasonable grounds for believing he will be subjected to such discrimination each time
6 that he may attempt to use the property and premises.

7 **PRAYER**

8 WHEREFORE, Plaintiff prays that this court award damages and provide relief
9 as follows:

10 1. Issue a preliminary and permanent injunction directing Defendants as current
11 owners, operators, lessors, and/or lessees of the Property to modify the above
12 described Property and related facilities so that each provides full and equal access to
13 all persons, including but not limited to persons with physical disabilities who use
14 wheelchairs, and issue a preliminary and permanent injunction directing Defendants to
15 provide and maintain facilities usable by Plaintiff and similarly situated persons with
16 disabilities, and which provide full and equal access, as required by law, including
17 appropriate changes in policy;

18 2. Retain jurisdiction over the Defendants until such time as the Court is satisfied
19 that Defendants' unlawful policies, practices, acts and omissions, and maintenance of
20 inaccessible public facilities as complained of herein no longer occur, and can not
21 recur;

22 3. Award to Plaintiff statutory damages of \$4,000 for each occurrence of
23 deterrence or discrimination experienced by Plaintiff until a final judgment is rendered
24 in this case, all according to proof;

25 4. Award to Plaintiff all appropriate damages, including but not limited to
26 statutory damages, general damages and treble damages in amounts within the
27 jurisdiction of this Court, all according to proof;
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1 5. Award to Plaintiff all reasonable statutory attorney fees, litigation expenses, and
2 costs of this proceeding as provided by law;

3 6. Award to Plaintiff prejudgment interest pursuant to California Civil 17 Code§
4 3291;

5 7. Grant such other and further relief as this Court may deem just and proper.
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8 ASCENSION LAW GROUP, PC

9 DATE: August 14, 2024

10 /s/Pamela Tsao

11 Pamela Tsao, attorney for Plaintiff

12 QUY TRUONG
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